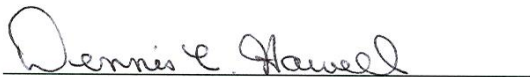


Defendant ESIS had the opportunity to have the Court rule on any motion to dismiss prior to the opening of discovery by moving to dismiss the Complaint rather than filing its Answer. Had Defendant ESIS done so, the Court would not have entered the Pretrial Order until the Court resolved any pending motions to dismiss. Defendant ESIS, however, made the decision to answer the Complaint and wait nearly a year from the date the Complaint was filed to move to dismiss the claims asserted against it. Having made the decision to delay filing the Motion to Dismiss until months after the entry of the Pretrial Order, Defendant ENIS will have to respond to Plaintiff's discovery requests in a timely manner. As a practical matter, this Court cannot delay discovery pending a ruling on the Motion to Dismiss at such a late date. Accordingly, the Court **DENIES** the motion [# 33]. Defendant ESIS shall have ten (10) days from the entry of this Order to fully respond to Plaintiff's discovery requests.

Signed: August 11, 2016



Dennis L. Howell
United States Magistrate Judge

